

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 99-57 (1) (RHK)

Plaintiff,

ORDER

v.

Randy Anderson,

Defendant.

Defendant is currently serving a 360-month sentence imposed following his guilty plea to the charge of conspiracy to distribute cocaine and cocaine base; the 360-month sentence was the low end of the applicable Guidelines range. He now seeks a reduction of his sentence pursuant to 18 U.S.C. § 3582, based on United States Sentencing Guidelines Amendments 706 and 711.

The United States does not oppose a reduction of his sentence to a point within the new guidelines range of 324 months; it does, however, oppose the requested further reduction based on the factors set forth in 18 U.S.C. § 3553(a). In commendable candor, defense counsel acknowledges that recent decisions of the Eighth Circuit preclude the Court from revising a sentence beyond the modified Guidelines range in Section 3582 context. See United States v. Starks, 551 F.3d 839 (8th Cir. 2009) and United States v. King, 518 F.3d 571 (8th Cir. 2009).

The revised Guidelines range applicable here is 324-405 months; having sentenced Defendant to the low end of the applicable Guidelines range in February 2000, the Court

will grant Defendant's Motion in part and direct the entry of a revised Judgment imposing a sentence of 324 months.

Dated: February 17, 2009

s/Richard H. Kyle

RICHARD H. KYLE

United States District Judge